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LETTER DATED 11 MARCH 1997 FROM THE CHAIRMAN OF THE SECURITY COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith the report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait pursuant to paragraph 12 of Security Council resolution 986 (1995). The report, covering the Committee's activities in relation to the implementation of resolution 986 (1995) during the first 90 days after the date of entry into force of paragraph 1 of that resolution, was adopted by the Committee on 11 March 1997.

(Signed) António MONTEIRO
Chairman
Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait

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Annex

Report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995)

I. INTRODUCTION

1. The present report is submitted to the Security Council pursuant to paragraph 12 of resolution 986 (1995), by which the Committee is requested to report to the Council 90 days after the date of entry into force of paragraph 1 of resolution 986 (1995) on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of the resolution.

2. As called for by resolution 986 (1995), the Committee developed, in close coordination with the Secretary-General, expedited procedures as necessary to implement the arrangements in the paragraphs referred to above. At its 142nd meeting, held on 8 August 1996, the Committee adopted the procedures to be employed by it in the discharge of its responsibilities as required by paragraph 12 of resolution 986 (1995) (S/1996/636).

3. Paragraph 1 of Security Council resolution 986 (1995) which authorizes States to permit the import of petroleum and petroleum products originating in Iraq came into force at 0001 Eastern Standard Time on 10 December 1996 following the submission on 9 December 1996 of the Secretary-General's report to the President of the Security Council pursuant to paragraph 13 of that resolution (S/1996/1015).

II. EXPORT OF OIL FROM IRAQ

4. In accordance with paragraph 1 of its procedures, the Committee selected on 9 August 1996 four independent experts in international oil trade, appointed subsequently by the Secretary-General as "overseers" at United Nations Headquarters, to assist the Committee in the performance of its duties concerning oil transactions. The overseers have since worked closely with the Iraqi State Oil Marketing Organization (SOMO) on the pricing mechanisms and on addressing unanticipated changes in prices and destinations. Pursuant to paragraphs 5 and 6 of the procedures, SOMO has been submitting pricing mechanisms for sales of petroleum for review by the Committee. The overseers assessed these pricing mechanisms, in particular whether they reflected fair market value, and provided their analysis and recommendations to the Committee. Based upon the positive recommendations of the overseers, on 27 November 1996, the Committee approved the pricing mechanisms for loadings of crude oil in December 1996 under its no-objection procedure. Since then, the Committee has also approved the updated pricing mechanisms for loadings in January, February and March 1997, as well as further adjustments to two of these pricing mechanisms.

5. As of 10 March 1997, a total of 38 contracts have been submitted to the overseers for their review, 37 of which have been approved. Thirty-four contracts employed the pricing mechanisms approved by the Committee and were reviewed and authorized by the overseers in accordance with the Committee's procedures. Three contracts, which did not employ the pricing mechanisms approved by the Committee, were reviewed and approved by the Committee on receipt of the recommendations of the overseers in accordance with paragraph 11 of the Committee's procedures. The total quantity of oil approved for export under these contracts amounts to approximately 51.6 million barrels for the first 90 days at an estimated value of 1.07 billion United States dollars, including the proceeds to cover the pipeline transportation fee.

6. Forty-six loadings, totalling 48.2 million barrels, with an estimated value of US$ 976.9 million, have been completed. About 63 per cent of the liftings have been made at Ceyhan.

7. In addition to term contracts, owing to a sharp decline in prices in February, spot contracts using the approved pricing mechanisms as well as advances of customer liftings from the second to the first quarter were concluded by SOMO, and approved by the overseers, with the intention of achieving the 90-day revenue objective of $1.07 billion.

8. To ensure the effective implementation of the resolution, the overseers have also submitted to the Committee proposals and sought its guidance concerning further streamlining of procedures, including proposals with regard to contract administration and revenue management within the one billion dollar limit for the first 90 days. With the objective of maximizing the revenue for oil delivered through 9 March without exceeding the limit of $1.07 billion, including the pipeline fee, and recognizing the vagaries of the market, the Committee has approved the proposal of the overseers to carry over small revenue shortfalls or surpluses from the first 90-day period to the second.

9. Pursuant to paragraph 14 of the Committee procedures, the overseers have been reporting to the Committee once a week on the contracts considered by them regarding the sale of petroleum originating in Iraq, including the cumulative quantity and approximate value of petroleum authorized for export. To date, 12 such reports have been submitted to the Committee.

10. The export of petroleum from Iraq has proceeded satisfactorily so far in accordance with the provisions of Security Council resolution 986 (1995), the memorandum of understanding concluded between the Secretariat of the United Nations and the Government of Iraq on the implementation of resolution 986 (1995) and the procedures of the Committee. Consultations with, and cooperation of all parties concerned, including SOMO, the national purchasers and the oil monitors of Saybolt, have all contributed to the smooth operation of oil export from Iraq.

III. EXPORT OF HUMANITARIAN SUPPLIES TO IRAQ

11. The Committee has attached priority to the work of processing applications for supplying humanitarian goods to Iraq from the very beginning of the

operation. The speed of processing such applications has been governed by a number of factors, including the availability of funds in the Iraq account. Therefore, the Committee has been able to review a limited number of applications. As of 10 March 1997, 308 applications have been received and 37 have been processed, with the assessment of the experts in the Committee secretariat, under the Committee's no-objection procedures. Fifteen of these applications have been authorized, the value of which totals US$ 153 million. Another 22 applications have been placed on hold.

12. The Special Committee has held a number of informal meetings at the expert level with a view to expediting the processing of humanitarian supplies to Iraq. For that purpose, the Committee, on 5 March 1997, agreed upon the following points of understanding relating to the implementation of resolution 986 (1995):

(a) Unless the Committee decides otherwise on a case-by-case basis, the Secretariat will continue processing applications submitted under resolution 986 (1995) on a first-come-first-served basis;

(b) Funds allocated to applications that have been blocked under the Committee's no-objection procedure will immediately be freed and used for processing further applications. Funds allocated to applications that have been placed on hold will be freed five working days after the date of the no-objection deadline and used for processing further applications. If such blocks and holds are removed, the applications concerned will have immediate priority for the allocation of funds;

(c) A separate status list on applications processed under resolution 986 (1995) will be prepared by the Secretariat and circulated to the members of the Committee on a weekly basis. Such lists will be dealt with in the same way as those prepared under resolution 661 (1990) (blocks recorded on the list will become official when the Committee adopts the lists at one of its formal meetings);

(d) To expedite the processing of humanitarian supplies to Iraq, applications that have been pre-examined by the experts in the Secretariat but have not been processed owing to the lack of funds in the Iraq account will be made available with the experts' comments in advance to the members of the Committee for their pre-screening. These applications will be officially processed once the required funds become available.

13. At the request of the Committee, an orientation programme will be organized by the secretariat of the Committee for the general membership of the United Nations and intergovernmental organizations, which will facilitate the submission of applications for sending humanitarian supplies to Iraq under resolution 986 (1995).

14. The Government of Iraq has requested the Committee to accord priority, as against the Committee's normal practice of processing applications on a first-come-first-served basis, to certain applications for shipping cooking oil, sugar, plastic bags and toilet soap to Iraq under the terms of resolution 986 (1995). The Committee discussed the request at its 150th meeting, on 21 February 1997, and decided to seek the views of the Department of

Humanitarian Affairs on the matter. Though the Department expressed the view in response to the Committee's query that the prioritization request by the Government of Iraq was in keeping with the distribution plan and would expedite the distribution of a complete food basket to the entire Iraqi population, the matter remains to be resolved pending further discussion among the parties concerned.

IV. MATTERS RELATING TO THE KIRKUK-YUMURTALIK PIPELINE

15. Pursuant to paragraph 2 of resolution 986 (1995), the Government of Turkey addressed a letter to the Committee on 14 January 1997 requesting the Committee to take action for the transfer of US$ 46,286,616.44, representing oil transportation costs due to Turkey during the first 90 days of Iraq's oil exportation under that resolution, as agreed upon between the two countries. Upon the recommendation of the overseers, the Committee took note of the pipeline fees as indicated above and expressed general agreement with the payment. However, since the payment modality as envisaged by the Turkish side was not provided for in the existing contract between SOMO and Turkish Petroleum Refineries Corp. (Tupras), the Committee suggested to Turkey to amend the contract accordingly or to conclude a separate contract for the sale of Iraqi oil to cover only the transportation fees. In the view of the Committee, payment of the transportation fees can take place only after proceeds from the sales of oil to cover the above fees have been deposited in the Iraq account, and the deductions for the Compensation Fund have been made. A letter to the above effect has been sent by the Chairman of the Committee to Turkey.

16. Pursuant to paragraph 9 of resolution 986 (1995), Turkey submitted two requests to supply parts and equipment for the Kirkuk-Yumurtalik pipeline system in Iraq, the first request for sending spare parts and equipment to Iraq for immediate repair work of the pipeline deemed essential in the initial stages of the pipeline's operation and the second for shipping other spare parts and equipment with a view to securing the medium- and long-term safety of the pipeline. The Committee considered the requests a number of times. The first request was approved by the Committee on the understanding that the spare parts and equipment would remain in Turkey until they were needed in Iraq. The second request has been deferred but will remain on the Committee's agenda to allow the Committee to have more time to assess the necessity of such spare parts after the initial repair work on the pipeline. Issues pertaining to paragraph 10 of resolution 986 (1995) have not been raised so far in the Committee.

V. OBSERVATIONS

17. In discharging its mandate under resolution 986 (1995), the Special Committee has enjoyed excellent cooperation with Member States and relevant departments in the Secretariat and has followed all the aspects of implementation of resolution 986 (1995). In particular, the Committee has kept in close contact with the Department of Humanitarian Affairs in order to follow its efforts regarding the deployment of observers in Iraq. A close working relationship has also been maintained among the Committee, its secretariat and the Iraqi authorities. This cooperation was crucial in ensuring the smooth

deployment of the independent inspection agents for monitoring the relevant oil installations, as well as of those who will be confirming the arrival in Iraq of humanitarian supplies.

18. The various measures taken or being considered by the Committee and its secretariat should enable the Committee to speed up the processing of applications.

19. The Committee is determined to carry out the tasks entrusted to it by the Security Council in the implementation of resolution 986 (1995). It will continue its efforts to resolve practical difficulties arising from this complex and unprecedented operation.